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CONCORD, N.H.

Honorable Paul H. Daniel
Senate Chamber
State House
Concord, New Hampshire

Dear Senator Daniel:

This is in response to your letter of April 5th wherein you asked whether House Bill No. 317 is constitutional.

The bill contains a procedure for fixing the minimum prices which barbers may charge for their services and also provides for the regulation of hours during which barber shops may operate.

The regulation of prices or hours of labor is a proper device which may be employed by the legislature in promoting the public health, public safety or general welfare. Revised Laws, chapter 204 and 212, are examples of this type of legislation. It is necessary, however, that such regulation does in fact have a tendency to advance the public welfare.

Many states have legislation similar to that proposed by House Bill No. 317. The constitutionality of these statutes has been before the courts on many occasions. A majority of the cases considering the question have held that the statutes or ordinances fixing minimum prices or regulating hours of operation of barber shops were unconstitutional. On the other hand a substantial minority of the courts have upheld such regulation.

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In State v. Paille, 90 N.H. 347, a municipal ordinance of the City of Concord regulating the hours during which barber shops could remain open was found to be invalid.

You realize, of course, that only the courts can declare a statute to be unconstitutional and that it is very difficult to attempt to predict with certainty the result that our Supreme Court might reach on this question. In answer to your question I would therefore go no further than to state that a substantial question exists as to the constitutionality of House Bill No. 317.

Very truly yours,

Louis C. Wyman
Attorney General

HTB:L